



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

February 24, 2023

Via ECF

The Honorable Barbara C. Moses
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *The New York Times Company v. U.S. Dep't of Health and Human Services*,
No. 22 Civ. 9070 (BCM) (S.D.N.Y.)

Dear Judge Moses:

This Office represents the U.S. Department of Health and Human Services (“HHS”) in the above-referenced case brought by plaintiff The New York Times Company pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. I write respectfully on behalf of both parties pursuant to the Court’s order dated January 23, 2022, Dkt. No 18, to provide the Court with a status update in this matter.

As outlined in the complaint, this matter relates to three separate FOIA requests submitted by The New York Times Company to HHS—one from August 2, 2022; one from September 16, 2022; and one from September 22, 2022. HHS is currently working to respond to each of these requests, as outlined below.

August 2, 2022 Request: Following discussions between HHS and The New York Times Company about the scope of The New York Times Company’s request, HHS identified several excel spreadsheet files responsive to the August 2, 2022 request. HHS produced these spreadsheets to The New York Times Company on February 17, 2023, and The New York Times Company is currently reviewing them.

September 16, 2022 Request: Following discussions about the scope of privacy protections that would be applied within several spreadsheets responsive to The New York Times Company’s request, HHS intends to make a final production to The New York Times Company today, after which The New York Times Company intends to review and discuss with HHS.

September 30, 2022 Request: The New York Times Company’s September 30, 2022 request included four sub-requests. The status of each follows:

- First, The New York Times Company requested a log of calls to the Office of Refugee Resettlement’s (“ORR”) national call center. HHS has identified spreadsheets consisting of approximately 671,500 rows of call log narratives which include a “summary of call” column that requires line-by-line review for privacy exemptions.

- Second, The New York Times Company requested both monthly statistical reports and weekly reports summarizing caller safety concerns from the national call center. HHS has identified approximately 412 pages of monthly statistical reports, which it intends to release by March 3, 2023. It has also identified spreadsheets consisting of 19,500 rows of weekly safety reports that include a “narrative” column which requires line-by-line review for privacy exemptions.
- Third, The New York Times Company requested a database of would-be sponsors of unaccompanied children who were denied by ORR. HHS provided documents responsive to this request on December 7, 2022.
- Fourth, The New York Times Company requested a database of Notifications of Concerns filed with ORR regarding children formerly in ORR custody. At this time, HHS does not believe that it has documents responsive to this request, as the Notification of Concern form has not yet been disseminated for field use.

HHS is confident that it can process 150 rows of spreadsheet data per month, given the complexity of the cell-by-cell review needed to process the remaining spreadsheet records. Given the volume of information left to process, this would result in an exceptionally long production schedule. As such, HHS has provided The New York Times Company with samples of the remaining spreadsheet data so that the parties can discuss ways to narrow The New York Times Company’s request and focus HHS’s review.

* * *

Because the parties do not believe we have any issues that require the Court’s attention, we respectfully propose to provide the Court with an additional status update by April 7, 2023.

We thank the Court for its attention to this matter.

Respectfully submitted,

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Southern District of New York

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